

May 29, 2003

ENERGY & ENVIRONMENT
COMMITTEE
REPORT NO. 7

ALL MEMBERS PRESENT.

1. RESOLVED, that the following item is hereby received and filed.

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|----|---|------|-------|---------------|
| | Item | Page | -2003 | (Comm. 10D-5) |
| a. | DEP: SEQR – ECSD No. 3 – Consolidation & Blasdel Extension.
(5-0) | | | |

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|----|-------------------------|------|-------|---------------|
| 2. | Item | Page | -2003 | (Comm. 9E-48) |
| | COUNTY EXECUTIVE | | | |

WHEREAS, the Erie County Sewer District No. 2 (ECSD No. 2) has identified the need to retain an engineering firm to provide services required for a disinfection system upgrade at the ECSD No. 2 Big Sister Creek Wastewater Treatment Plant (WWTP); and

WHEREAS, ECSD No. 2 and the Erie County Department of Environment and Planning, Division of Sewerage Management have recommended the firm of Stearns & Wheler, LLC, University Centre, 415 North French Road, Suite 100, Amherst, New York 14228, to perform the Engineering services for this project.

NOW, THEREFORE, BE IT

RESOLVED, that the engineering firm of Stearns & Wheler, LLC, be retained at a cost not-to-exceed \$360,000.00; and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute an Agreement with the firm of Stearns & Wheler, LLC, University Centre, 415 North French Road, Suite 100, Amherst, New York 14228, to provide the Engineering services required, subject to approval as to form by the County Attorney's Office and approval as to content by the Commissioner of the Department of Environment and Planning; and be it further

RESOLVED that the County Comptroller be authorized and directed to allocate \$360,000.00 from ECSD No. 2 Sewer Capital, Fund No. 430, Project No. 533, for payment of the Engineering services contained in the Agreement; and be it further,

RESOLVED, that the Clerk of the Legislature be directed to send two (2) certified copies of this resolution to Charles J. Alessi, P.E., Deputy Commissioner, Department of Environment and Planning, one (1) copy to Nancy Naples, Erie County Comptroller, and one (1) copy to Gregory Dudek, Assistant County Attorney.
(5-0)

AS AMENDED
(Comm. 9E-49)

3. Item Page -2003

COUNTY EXECUTIVE

WHEREAS, the Erie County Legislature has secured the services of Stearns & Wheler, LLC, to provide engineering services, and

WHEREAS, the Erie County Department of Environment and Planning, Division of Sewerage Management has advised the Legislature that all engineering services are now complete, and

WHEREAS, the Erie County Department of Environment and Planning, Division of Sewerage Management has recommended the formal close-out of the Engineering Agreement with Stearns & Wheler, LLC dated November 5, 1998 at the final contract amount of \$3,403.61.

NOW, THEREFORE, BE IT

RESOLVED, that the Engineering Agreement November 5, 1998 between the County of Erie/Erie County Sewer District No. 2 and Stearns & Wheler, LLC be formally closed-out in the final contract amount of \$3,403.61, and be it further

RESOLVED, that the Erie County Comptroller is hereby authorized and directed to formally close-out the Engineering Agreement between the County of Erie/Erie County Sewer District No.2 and Stearns & Wheler, LLC dated November 5, 1998. and be it further

RESOLVED, that the Clerk of Legislature be directed to send two (2) certified copies of this resolution to Charles J. Alessi, P.E., Department of Environment and Planning, and one certified copy each to Gregory Dudek, Assistant County Attorney and John S. Rizzo, Deputy Comptroller. (5-0)

4. Item Page -2003 (Comm. 10E-18)

COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Environment and Planning can provide oversight and guidance regarding the development of environmental reviews which comply with both state and federal laws, rules, and regulations for the Buffalo Municipal Housing Authority (BMHA); and

WHEREAS, because the Erie County Department of Environment and Planning has the resources and the expertise necessary to complete these reviews when they are needed and is capable of handling the additional responsibilities of executing these reviews for the Buffalo Municipal Housing Authority; and

WHEREAS, the Erie County Department of Environment and Planning has agreed to perform these duties for no fee over and above staff time and actual expenses,

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Executive is hereby authorized to enter into an agreement for the year 2003 with the Buffalo Municipal Housing Authority for the receipt of funds, in an amount not to exceed \$25,000, for the purpose providing oversight and guidance regarding the development of environmental reviews which comply with both state and federal laws, rules, and regulations; and be it further

RESOLVED, these funds shall credited to Local Source Revenues (DAC 110 945620360) for utilization by the Department of Environment and Planning for the performance of National Environmental Protection Act (NEPA) and New York State Environmental Quality Review Act (SEQRA) reviews which comply with both state and federal laws, rules, and regulations for the Buffalo Municipal Housing Authority; and be it further

RESOLVED, that said agreement shall be in effect for ONE YEAR, beginning from the date executed by all parties hereto and will automatically renew for successive one year periods unless and until notice in writing is served by either party hereto no less than 30 days prior to expiration of its term or any successive renewal term; and be it further

RESOLVED, that certified copies of this resolution be forwarded to the Commissioner of the Department of Environment and Planning, the County Comptroller, the Director of the Division of Budget, Management, and Finance, and Sharon M. West, Executive Director of the Buffalo Municipal Housing Authority, 300 Perry Street, Buffalo, NY 14204.
(5-0)

5. Item Page -2003 (Comm. 10E-23)

COUNTY EXECUTIVE

WHEREAS, the County has entered into two Contracts-for-Differences to ensure price stability throughout the year for its supply of electricity, and

WHEREAS, the City of Buffalo was one participant, along with Erie County, in these Contracts-for Differences, and

WHEREAS, the City of Buffalo has requested termination of their participation in these agreements with the liabilities and assets becoming the responsibility of Erie County, and

WHEREAS, for the majority of the period of the contract to date, payments have been made to the participants with the amount that would have been refunded to the City of Buffalo had their participation remained being approximately \$350,000 for the month of March,

NOW, THEREFORE, BE IT,

RESOLVED, that the Erie County Legislature authorizes the Department of Public Works to assume responsibility of the City of Buffalo's portion of the Contracts-for-Differences currently in effect and escrow the funds that the City of Buffalo would have received from this contract to pay for any potential liabilities that may occur in future months; and be it further,

RESOLVED, that any funds that remain at the end of the contract will be used to finance energy conservation programs, and be it further,

RESOLVED, that two certified copies of this resolution be sent to the Department of Public Works, Office of the Commissioner; one copy to the Division of Budget Management & Finance; and one copy to the Office of the Comptroller.
(5-0)

6. Item Page -2003 (Comm. 10E-34)
 COUNTY EXECUTIVE

WHEREAS, Erie County Sewer District No. 2 recently completed the expansion of its Big Sister Creek Treatment Plant and District Office; and

WHEREAS, the District requires the position of Laborer to assist in the ever increasing maintenance and various janitorial tasks at the Treatment Plant facilities.

NOW, THEREFORE, BE IT

RESOLVED, the creation of the position of Laborer, Job Group 3, is hereby authorized and approved in the 2003 Budget; and be it further

RESOLVED, that the funding for the position be taken out of 2003 Budget, Erie County Sewer District No. 2, unexpended salaries; and be it further

RESOLVED, that the Clerk of the Legislature be authorized and directed to send certified copies of the approved resolution to Charles J. Alessi, Deputy Commissioner, Department of Environment and Planning, the Erie County Personnel Department and the Erie County Budget Office.

(4-1) Legislator Dale in the negative.

7. Item Page -2003 (Comm. 10E-35)
 COUNTY EXECUTIVE

WHEREAS, the County recognizes the need to properly train its employees to protect their health and well being, and to comply with applicable state and federal regulations, and

WHEREAS, Erie County's Division of Sewerage Management has applied for funds from the Western New York Council On Occupational Safety & Health through a New York State Department of Labor Hazard Abatement Board training grant.

NOW, THEREFORE, BE IT

RESOLVED, that the proposed agreement between the County of Erie and the Western New York Council on Occupational Safety & Health to provide health and safety training to the Division of Sewerage Management and Sewer District employees is hereby approved, and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute said agreement subject to approval as to form by the County Attorney and as to content by the Commissioner of Environment & Planning, and be it further

RESOLVED, that the Clerk of the Legislature be authorized and directed to send two certified copies of this resolution to Charles J. Alessi, P.E., Deputy Commissioner, Department of Environment and Planning, and one certified copy each to Joseph Passafiume, Director of Budget and Management, Nancy Naples, Erie County Comptroller, and Gregory Dudek, Assistant County Attorney.

(5-0)

8. Item Page -2003 (Comm. 10E-36)

COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Environment and Planning has the responsibility for coordinating the New York State Agricultural District Re-certification process for seventeen districts within Erie County; and

WHEREAS, the Department of Environment and Planning is currently coordinating the re-certification of the following agricultural districts

1. Brant/Evans #1
2. Brant/Evans #2
3. Elma

and

WHEREAS, the primary planner responsible for coordinating the aforementioned process retired from County service in September 2002 thereby leaving a void in expertise relative to the agricultural district process and other rural planning services; and

WHEREAS, a variety of issues surfaced during the Brant/Evans #1 and #2 re-certification process thereby requiring an unforeseen expenditure under the initial personal services contract,

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is hereby authorized to execute a First Amendatory Agreement to the November 21, 2002 Rural Planning Personal Services Contract with Chester C. Jandzinski, residing at 1650 Hall Road, Elma, New York 14059; and be it further

RESOLVED, that the amended agreement shall include an authorized contract amount not to exceed \$11,400; and be it further

RESOLVED, that the requirement for requests for proposals in Section 19.08 of the Erie County Administrative Code are hereby waived since this service is a continuation of efforts undertaken through the original five-month contract period and it is not deemed feasible or cost effective for the County to undertake this process; and be it further

RESOLVED, that the purpose of said agreement shall be to coordinate the re-certification of various Erie County Agricultural Districts with the New York State Department of Agriculture and Markets, and other rural planning services as deemed appropriate by the Department of Environment and Planning; and be it further

RESOLVED, that the source of funds shall be money available within Project 835, Account 821, Dues & Fees; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the County Comptroller, the Commissioner of the Department of Environment and Planning, the Commissioner of Personnel, and the Director of the Division of Budget, Management, and Finance.

(5-0)

9. Item Page -2003 (Comm. 10E-41)

COUNTY EXECUTIVE

WHEREAS, a Local Law was adopted by the Erie County Legislature in September 2002, which was later vetoed by the Erie County Executive, and not subsequently overridden, and

WHEREAS, representatives from the lawn care industry and environmental groups have been working together to develop a comprehensive pesticide notification program that seeks to incorporate the best provisions of the potential programs, and

WHEREAS, the Cooperative Pesticide Notification Program, is a result of these efforts, and

WHEREAS, under the Program, an extensive outreach program will be conducted to ensure, to the extent possible, that every resident of Erie County who wishes to be notified of pesticide applications will be, and

WHEREAS, under the Program, a registration form will be made available for all Erie County residents who wish to be notified of pesticide applications, and also will allow registrants to express a preference for the form of notification, and

WHEREAS, when the forms are received and a registry is established, it will be maintained by a Registry Committee, and

WHEREAS, pesticide applicators will provide 48 hours notice of pesticide spraying to all registrants who live within 200 feet of the homeowner's property where spraying is taking place, and residents whose property abuts a homeowner's property where granular pesticides are being applied also will be notified, and

WHEREAS, registrants can submit comments or complaints, reported to the Registry Committee (or another committee established to oversee the program), which then will report back to the County on the nature of the complaint, its investigation, action taken, and whether the complainant was satisfied with the action taken, and

WHEREAS, an enforcement committee will be established to investigate alleged violations of the Program, and impose written warnings and/or fines for confirmed violations, and

WHEREAS, a thorough review of this pilot program will be administered after the 2003 Spring/Summer season, at which time it will be determined whether the Program should continue and what modifications, if any, should be made,

NOW, THEREFORE, BE IT

RESOLVED, the Cooperative Pesticide Notification Program, developed by representatives from the lawn care industry and environmental groups is a comprehensive pesticide notification program that is both fair and reasonable to all parties involved, and be it further

RESOLVED, that the pesticide industry has agreed to pay approximately \$15,000 of the costs for the implementation of the Program's Outreach initiative, and be it further

RESOLVED, that the remaining expenses for the Outreach initiative, in the amount of \$18,000, be transferred as follows:

<u>From:</u> <u>Account</u>	<u>Description</u>	<u>Amount</u>
110 904 303 830 1299	Regionalism & Economic Development Fund	(\$18,000)
<u>To:</u> <u>Account</u>	<u>Description</u>	<u>Amount</u>
110 945 620 830	Cooperative Pesticide Notification Program	\$18,000

And be it further

RESOLVED, an Environmental Compliance Specialist RPT position, JG-12, is hereby created in the Department of Environment and Planning to coordinate the public outreach initiative, registration, response and follow-up, and program evaluation, and be it further

RESOLVED, that funding, in the amount of \$24,000, for this position during the pilot program's one year duration, shall be transferred as follows:

<u>From:</u> <u>Account</u>	<u>Description</u>	<u>Amount</u>
110 904 303 830 1299	Regionalism & Economic Development Fund	(\$24,000)
<u>To:</u> <u>Account</u>	<u>Description</u>	<u>Amount</u>
110 945 620 800	E&P - Personal Services	\$19,200
110 945 620 805	E&P - Fringe Benefits	\$ 4,800

And be it further

RESOLVED, that certified copies of this resolution be forwarded to the County Executive; the Office of the Comptroller; the Division of Budget, Management & Finance; the Department of Environment & Planning; and Michael Powers, Chairman of the Erie County Environmental Management Council, c/o Phillips Lytle, One HSBC Center, Buffalo, NY 14203.
(5-0)

10. Item Page -2003 (Comm. 10E-43)

COUNTY EXECUTIVE

WHEREAS, the County and the Southtowns Sewage Treatment Agency/Erie County Sewer District No. 3 (ECSD #3) amended the ECSD #3/Southtowns Sewage Treatment Agency Budget to include the Village of Blasdell; and

WHEREAS, as part of the Amended Budget approved by your Honorable Body on April 13, 2003 (Comm. 7E-18) Interfund Costs in the amount of \$36,750 were allocated to the Downtown Division of Sewerage Management Budget in the ECSD No. 3/Southtowns Sewage Treatment Agency Interfund but omitted in the Interfund Budget of the Division of Sewerage Management.

NOW, THEREFORE, BE IT

RESOLVED, that it is hereby approved that the Interfund Costs of \$36,750 as approved in the Amended Erie County Sewer District No. 3/Southtowns Sewage Treatment Agency Budget be included and in the Downtown Division of Sewerage Management Budget as follows:

<u>DAC Code</u>	<u>Budget Increase</u>
220 855 850 800 Personal Svcs.	\$36,750
220 855 850 8300 Interdept. – SD#3 Southtowns	(\$36,750)

and be it further

RESOLVED, that certified copies of the approved Resolution is sent to Charles J. Alessi, Deputy Commissioner, Department of Environment and Planning, the County Comptroller and the Erie County Budget Office.

(5-0)

11. Item Page -2003 (Comm. 10E-44)

COUNTY EXECUTIVE

WHEREAS, in Communications Number 12E-20 (c), dated July 5, 2001 and Communication Number 14E-50, legislative authorization was received to enter into contracts with two Performance Contracting firms, and

WHEREAS, the funding was originally approved in the 2002 fiscal year but delays require that we reappropriate the funding in the 2003 Budget year, and

WHEREAS, the first step in a Performance Contract is to perform a comprehensive energy audit, and

WHEREAS, if cost effective Energy Conservation Measures are found at a facility, and a construction contract is executed, the cost for the comprehensive energy audit is included in the construction contract, and

WHEREAS, the Division of Sewerage Management has selected CMS Environ and Siemens Building Technologies as the Performance Contractors; and

WHEREAS, if cost effective Energy Conservation Measures are found at a facility, and a construction contract is not executed by the County, the Performance Contractors then expect and deserve payment not-to-exceed \$60,000.00 each for the comprehensive energy audit, and

WHEREAS, the New York State Energy Research and Development Authority (NYSERDA) has committed to reimbursing the Department of Environment & Planning, Division of Sewerage Management for 50% of the comprehensive energy audit costs up to \$40,000, and

WHEREAS, the Department of Environment and Planning has advised the County Legislature that there are benefits to completing the comprehensive energy audits.

NOW, THEREFORE, BE IT

RESOLVED, that the Department of Environment & Planning, Division of Sewerage Management was previously authorized (Ref. Comm. 14E-50) to issue supplemental agreements to the County's Performance Contractors to perform comprehensive energy audits providing that a clause is included in the contract that states that no specific payment will be made for this service provided cost effective Energy Conservation Measures are found at a facility, and a construction contract is executed, and be it further

RESOLVED, that should the Performance Contractors perform a comprehensive energy audit and cost effective Energy Conservation Measures are found at a facility, and a construction contract is not executed by the County, the cost of this comprehensive energy audit work will be paid from Sewer District funds, \$60,000.00 for each Performance Contractor, not-to-exceed a total of \$120,000, and be it further,

RESOLVED that the Director of Budget, Management and Finance be directed to re-allocate funds accordingly, as follows:

ECSD Nos. 1, 4, & 5

Use of Fund Balance, 220 851 810 698 105 - \$30,000
Contractual Services, 220 851 810 830

ECSD No. 2

Use of Fund Balance, 220 852 820 698 105 - \$30,000
Contractual Services, 220 852 820 830

ECSD No. 3/Southtowns

Use of Fund Balance, 220 853 830 698 105 - \$30,000
Contractual Services, 220 853 830 830

ECSD No. 6

Use of Fund Balance, 220 854 840 698 105 - \$30,000

Contractual Services, 220 854 840 830;

and be it further,

RESOLVED, that the County Executive was previously authorized (ref. Comm. 14E-50) to execute said supplemental agreements subject to approval as to form by the County Attorney and approval as to content by the Commissioner of the Department of Environment and Planning; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send two (2) certified copies of this resolution to Charles J. Alessi, P.E., Deputy Commissioner, Department of Environment and Planning, and one copy to Nancy Naples, County Comptroller, Gregory Dudek, Assistant County Attorney and Joseph Passafiume, Director of Budget and Management. (5-0)

12. Item Page -2003 (Comm. 10E-45)

COUNTY EXECUTIVE

WHEREAS, the Erie County Legislature has secured the services of Donald Gallo Consultant Engineer, P.E. by Agreement dated June 15, 2001 to provide construction inspection services on various construction projects throughout the County Sewer Districts and the Southtowns Treatment Agency service area; and

WHEREAS, the Department of Environment and Planning, Division of Sewerage Management, has completed the design of a number of new system improvements throughout the County Sewer Districts and is in need of inspectors to supplement its staff during the construction of these facilities; and

WHEREAS, the Department of Environment and Planning is recommending approval of Engineering Change Order No.1 to the Donald Gallo Consultant Engineer, P.E. Agreement dated June 15, 2001 which will extend the term of the Agreement to December 31, 2004 and increase the contractual limit to \$300,000.00(an increase of \$150,000.00).

NOW, THEREFORE, BE IT

RESOLVED, that Engineering Change Order No.1 to the Donald Gallo Consultant Engineer, P.C. Agreement dated June 15, 2001 be approved extending the term agreement and increasing the contractual limit to \$300,000.00 (an increase of \$150,000.00), and be it further

RESOLVED, that the Deputy Commissioner of the Division of Sewerage Management is hereby directed to execute Engineering Change Order No.1 with the firm of Donald Gallo, Consulting Engineer, P.C., 589 Delaware Avenue, Buffalo, New York 14202, to provide the needed engineering services; and be it further

RESOLVED, that the County Comptroller be authorized to allocate \$150,000.00 for payment of the change order from the various Erie County Sewer District Capital Accounts and/or Sewer Operating Fund Balances as determined by the Deputy Commissioner of Environment and Planning, Division of Sewerage Management; and be it further

RESOLVED, that the following Sewer Capital Accounts and Sewer Operating Accounts be used as needed and as determined to be necessary by the Deputy Commissioner of Environment and Planning:

<u>Description</u>		<u>Bond Account</u>
<u>SEWER CAPITAL ACCOUNTS:</u>		
ECSD #1	Increase & Improvement of Facilities (1994)	430-694
ECSD #2	Increase & Improvement of Facilities (1992)	430-533
ECSD #2	Increase & Improvement of Facilities (1996)	430-913
ECSD #2	Increase & Improvement of Facilities (1998)	430-147
ECSD #2	Increase & Improvement of Facilities (2002)	430-340
ECSD #2	Increase & Improvement of Facilities (2003)	430-444
ECSD #3	Increase & Improvement of Facilities (2002)	430-174
ECSD #3	Southtowns Increased Improvements (1997)	430-915
ECSD #4	Increase & Improvement of Facilities (1993)	430-535
ECSD #4	Increase & Improvement of Facilities (1994)	430-693
ECSD #5	Increased Facilities (1987)	430-526
ECSD #5	Meadowlakes Extension	430-534
ECSD #5	Increase & Improvement of Facilities (1998)	430-798
ECSD #6	Increase & Improvement of Facilities (1991)	430-532
ECSD #6	Increase & Improvement of Facilities (1995)	430-914
ECSD #6	Increase & Improvement of Facilities (1999)	430-111

SEWER OPERATING ACCOUNTS:

ECSD #s 1-4-5	220 851 810 830
ECSD #2	220 852 820 830
ECSD #3/Southtowns	220 853 830 830
ECSD #6	220 854 840 830

and be it further

RESOLVED, that a certified copy of this resolution be sent to Gregory Dudek, Assistant County Attorney, Charles J. Alessi, P.E., Department of Environment and Planning and the Erie County Comptroller's Office.

(5-0)

13. Item Page -2003 (Comm. 10E-46)

COUNTY EXECUTIVE

WHEREAS, the City of Buffalo has requested Erie County Sewer District No. 6 (ECSD NO. 6) to provide storm sewer conveyance capacity to the City of Buffalo's Union Ship Canal properties; and

WHEREAS, the City of Buffalo will provide for the construction of the storm sewer facilities and interconnection into the existing ECSD No. 6 storm water system; and

WHEREAS, the City of Buffalo will obtain ownership of the storm water system from the point of interconnection downstream through the point of discharge into the Union Ship Canal from ECSD No. 6.

NOW, THEREFORE, BE IT

RESOLVED, that a no cost agreement between the County, on behalf of Erie County Sewer District No. 6, and the City of Buffalo for the purpose of providing storm water conveyance service to the Union Ship Canal properties, and transfer of ownership from the County to the City of Buffalo of the storm water system from interconnection through the point of discharge, is hereby approved; and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute said agreement subject to approval as to form by the County Attorney, and content by the Commissioner of the Department of Environment and Planning; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send two (2) certified copies of this resolution to Charles J. Alessi, P.E., Deputy Commissioner, Department of Environment and Planning, and one (1) certified copy each to Nancy Naples, Erie County Comptroller; Gregory Dudek, Assistant County Attorney; Joseph Passafiume, Director of Budget and Management; Peter Cammarata, ECIDA; and Daniel Kreuz, City Engineer, City of Buffalo.
(5-0)

DALE W. LARSON
CHAIRMAN